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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 627

PUBLIC SERVICE COMMISSION OF MONTANA, DAN BOYLE, LEE DENNIS, AND LEONARD YOUNG, MEMBERS OF SAID COMMISSION, AND L. A. FOOT, ATTORNEY GENERAL OF THE STATE OF MONTANA, APPELLANTS,

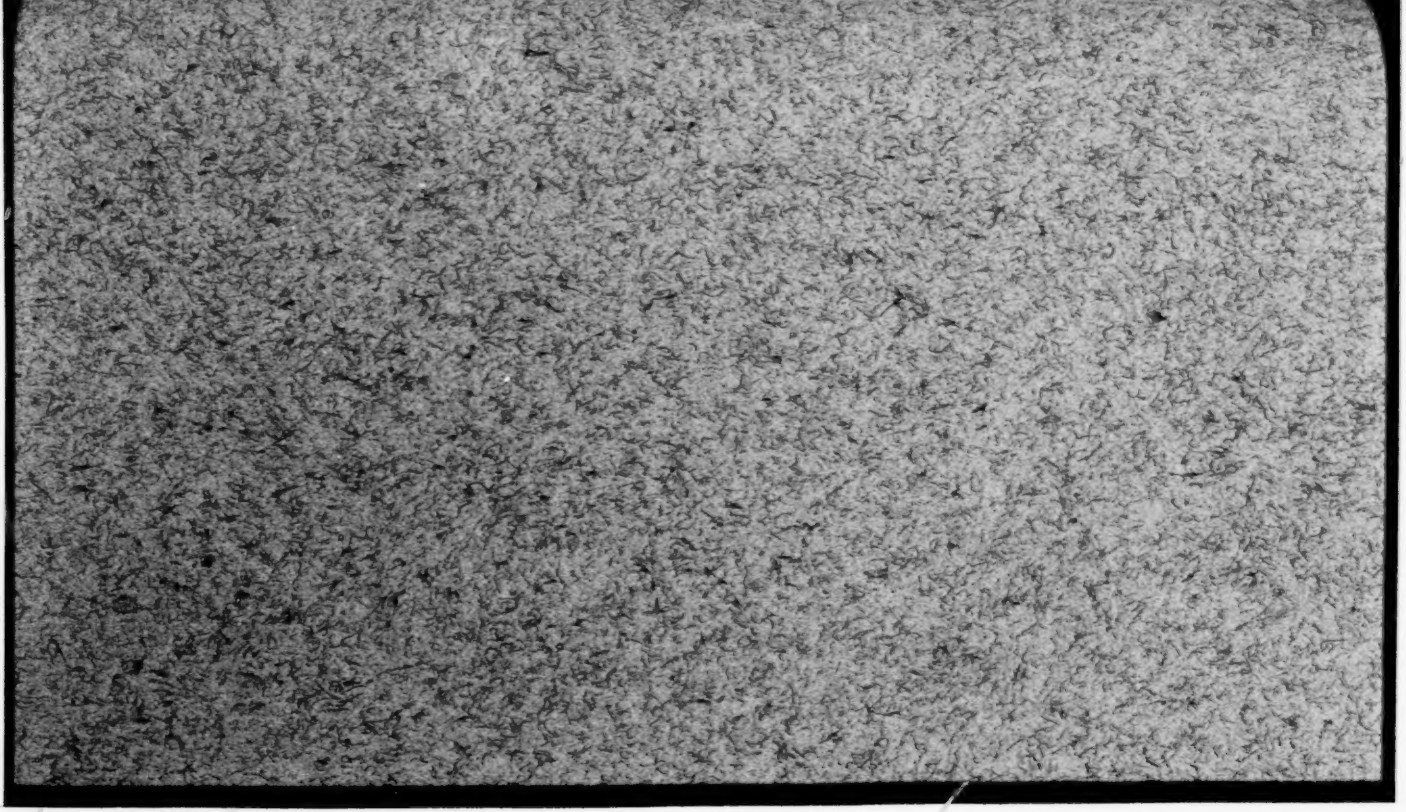
vs.

GREAT NORTHERN UTILITIES COMPANY.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MONTANA.

STATEMENT AS TO JURISDICTION.

L. A. FOOT,
Attorney General of Montana;
FRANCIS A. SILVER,
Counsel, Public Service Commission of Montana,
Counsel for Appellants.



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IN THE

District Court of the United States in and for the District of Montana

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No. 1060

GREAT NORTHERN UTILITIES COMPANY,
PLAINTIFF,

vs.

PUBLIC SERVICE COMMISSION OF MONTANA, DAN BOYLE, LEE DENNIS, AND LEONARD YOUNG, MEMBERS OF SAID COMMISSION, AND L. A. FOOT, ATTORNEY GENERAL OF THE STATE OF MONTANA, DEFENDANTS.

STATEMENT OF BASIS OF APPELLATE JURISDICTION.

Pursuant to the provisions of Supreme Court Rule 12, paragraph 1, the above-named defendants and appellants file this their statement showing the basis on which said defendants and appellants contend that the Supreme Court of the United States has jurisdiction

upon appeal to review the permanent injunction decree and order appealed from herein, as follows:

I.

The statutes believed to sustain the appellate jurisdiction are Sections 238 and 266 of the Judicial Code, as amended (28 U. S. C. A., Secs. 345 (3) and 380).

II.

The statute of the State of Montana, the validity of which is involved, is Chapter 52, Laws of Montana, 1913, embodied in the Revised Codes of Montana, 1921, as sections 3879 to 3913, both inclusive (pps. 1420 to 1432, Vol. I, Revised Codes of Montana, 1921).

That the provisions of said Chapter 52, Laws of 1913, *supra*, that are pertinent to the appeal provide that every public utility operating within the State of Montana shall file with the Public Service Commission schedules showing all rates and charges established by said public utility for any service performed by it within the State; also, all rules and regulations that in any manner affect the rates charged, or to be charged, for any service, and that no change shall thereafter be made in such schedules except upon twenty (20) days' notice to the commission, unless a reduction is involved in which case a lesser time may be prescribed by the commission, subject to the following proviso:

> "*Provided, however,* that no advance or reduction of existing schedules shall be made without the concurrence of the commission."

III.

The date of the decree sought to be reviewed herein is October 15, 1932, and the date upon which the application herein for appeal is presented is the 26th day of November, 1932.

IV.

The appeal herein is from a permanent injunction decree and order granted by a specially constituted district court convened under the provisions of Section 266 of the Judicial Code, as amended (28 U. S. C. A. 380), restraining the Public Service Commission of Montana, its members, and the Attorney General of the State of Montana from enforcing an order issued by the Public Service Commission of Montana on January 22, 1929, requiring the Great Northern Utilities Company, plaintiff and appellee, to file and establish certain natural gas rates for application in Shelby, Montana.

V.

The cases believed to sustain the jurisdiction are as follows:

Stratton v. *St. Louis S. W. Ry. Co.*, 282 U. S. 10, 51 S. Ct. 8, 75 L. Ed. 135;

Ex Parte Buder, 271 U. S. 461, 46 S. Ct. 557, 70 L. Ed. 1036.

Dated at Helena, Montana, this 26th day of November, 1932.

Respectfully submitted,

L. A. FOOT,
Attorney General of the State of Montana;
FRANCIS A. SILVER,
Counsel, Public Service Commission of Montana,
Attorneys for Defendants and Appellants.

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